

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RYANAIR DAC,

*Plaintiff/
Counterclaim Defendant,*

V.

BOOKING HOLDINGS INC.,
BOOKING.COM B.V., KAYAK SOFTWARE
CORPORATION, PRICELINE.COM LLC,
and AGODA COMPANY PTE. LTD.,

Defendants,

BOOKING.COM B.V.,

Counterclaim Plaintiff.

C.A. No. 1:20-cv-01191-WCB

**PUBLIC VERSION -
CONFIDENTIAL MATERIAL OMITTED**

**PLAINTIFF RYANAIR DAC’S MOTION FOR
SUMMARY JUDGMENT AND TO PRECLUDE EXPERT TESTIMONY
OF TIMOTHY JAMES O’NEIL-DUNNE,
JORDAN RAE KELLY, AND BASIL IMBURGIA**

Pursuant to Federal Rule of Civil Procedure 56 and the Stipulated Order of the Court Modifying Deadlines, Briefing Schedule and Extending Page Limits (D.I. 313), Plaintiff, Ryanair DAC (herein, “Ryanair”) moves this Court for an Order granting summary judgment in favor of Ryanair and against Defendants for the following issues:

1. Ryanair has an express right of action against Defendant Booking.com B.V. (“Booking”) and Defendant Kayak Software Corporation (“Kayak”) under the CFAA because Ryanair has suffered at least [REDACTED] in losses in a one-year period due to Booking and at least [REDACTED] in losses in a one-year period due Kayak. 18 U.S.C. § 1030(g).

2. Defendants violated § 1030(a)(2)(C) of the CFAA by accessing the Ryanair Website, either directly or indirectly, without authorization. Booking and Kayak admit that their access was intentional, and there are no factual disputes that Booking's and Kayak's access circumvents authentication mechanisms implemented by Ryanair specifically to keep Defendants out.

3. Booking and Kayak are liable under CFAA § 1030(a)(5)(C) because they have caused damage by impairing the integrity of Ryanair's data and rendering Ryanair's payment processing systems inoperable.

4. Booking cannot prove any of its Counterclaims. The first and second counterclaims fail because (i) Ryanair did not act wrongfully and is allowed to protect its business interests lawfully, (ii) Booking cannot prove it suffered damage as a proximate result of Ryanair's actions, and (iii) Booking cannot prove that Ryanair knowingly interfered in Booking's business.

5. Booking's other counterclaims fail because Ryanair's statements to customers are true.

6. Booking's trade libel claim also fails because Booking has failed to provide any evidence that it suffered special damages, and it cannot prove actual malice.

7. For the reasons stated in Ryanair's Brief in Support of its Motion, O'Neil-Dunne's expert report and testimony should be excluded.

8. For the reasons stated in Ryanair's Brief in Support of its Motion, Kelly's expert report and testimony should be excluded.

9. For the reasons stated in Ryanair's Brief in Support of its Motion, Imburgia's expert report and testimony should be excluded.

A Proposed Order granting the Motion is attached hereto. Ryanair's Motion is supported by its Opening Brief in Support of its Motion for Summary Judgment, the Declaration of Anthony J. Fuga, Esquire and all exhibits thereto [D.I. 348 and 349], and the Declaration of Plaintiff's Expert Iain Lopata and all exhibits thereto [D.I. 350.]

Pursuant to District of Delaware Local Rule 7.1.1., a reasonable effort has been made to reach agreement with Defendants on the matters set forth in Ryanair's Motion, including oral communications between the parties' Delaware counsel on November 29, 2023.

Dated: December 20, 2023

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